

REMARKS

This preliminary amendment does not add new matter and is fully supported by the specification. Claims 19-57 are pending. In the Final Office Action dated August 7, 2008, Claims 19-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,235,295 (“Morgan”) in view of U.S. Patent No. 3,842,890 (“Kramer”). With this preliminary amendment, claims 19 and 41 have been amended for clarity. Reconsideration of the application is respectfully requested in light of the amendments and the following remarks.

INTERVIEW SUMMARY

On November 18, 2008, a telephone interview took place between the undersigned attorney and Examiner Redman. The claims and prior art were discussed. No agreement was reached.

AUGUST 7, 2008 REJECTIONS UNDER 35 U.S.C. § 103(a)

In the Final Office Action date August 7, 2008, Claims 19-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Morgan in view of Kramer. Applicants respectfully submit that claims 19-57 are patentable over the combination of Morgan and Kramer because these references, either alone or in combination, fail to disclose each and every limitation of the claims.

Independent claims 19 and 41, as amended, each recite, “wherein the frame, the spring-biased roller and the retractable material are configured so that, when the spring biased roller and retractable material are installed in the first side of the frame, and when the assembly is mounted

in and thereby encloses an opening of the building, access to the spring-biased roller and the retractable material for maintenance or repair purposes is provided without having to remove any fixedly attached portion of the frame.” The Final Office Action does not address this feature of claims 19 and 57. At best, the Office Action mistakenly characterizes this feature as a process/method which renders the claim as a whole a product by process claim. *See*, Final Office Action at p. 3. This characterization is incorrect. The feature described above is not a method/process by which the claimed assembly is produced. Instead, this feature is a positively recited characteristic of the claimed assembly. Accordingly, it is improper to disregard this feature from the analysis of the patentability of independent claims 19 and 41.

Moreover, neither the Morgan reference nor the Kramer reference teaches or suggests, either alone or in combination, a system, “wherein the frame, the spring-biased roller and the retractable material are configured so that, when the spring biased roller and retractable material are installed in the first side of the frame, and when the assembly is mounted in and thereby encloses an opening of the building, access to the spring-biased roller and the retractable material for maintenance or repair purposes is provided without having to remove any fixedly attached portion of the frame,” as claimed by Applicants.

For example, Applicants have already provided a detailed analysis of the deficiencies of Morgan with respect to the above described feature in the response filed September 22, 2006. In the September 22, 2006 response, Applicants provided a declaration by John Robert Davies, a named inventor and one of ordinary skill in the art, which explained the permanent nature of the Morgan structure. As explained therein, one must disassembly the frame and remove fixedly attached portions thereof from the building to which it is affixed in order to access the mesh

screen contained therein for maintenance or repair purposes. For example, Mr. Davies explained that one must remove several pieces of the structure in order to finally access the mesh screen, including: paint, caulking or other weather-sealing material, several screws, sheet metal sliding pieces, and a wooden board. Indeed, Morgan specifically teaches away for the claimed apparatus when Morgan explains that,

“It will be noted that the screen is incorporated in the window frame as a permanent fixture. Seasonal installations and removals are thus avoided.”

Morgan, at col.2, l.24. (emphasis added) For at least these reason, Morgan fails to teach or suggest a system, “wherein the frame, the spring-biased roller and the retractable material are configured so that, when the spring biased roller and retractable material are installed in the first side of the frame, and when the assembly is mounted in and thereby encloses an opening of the building, access to the spring-biased roller and the retractable material for maintenance or repair purposes is provided without having to remove any fixedly attached portion of the frame.”

Kramer fails to fill the gap because Kramer also fails to disclose or suggest a system, “wherein the frame, the spring-biased roller and the retractable material are configured so that, when the spring biased roller and retractable material are installed in the first side of the frame, and when the assembly is mounted in and thereby encloses an opening of the building, access to the spring-biased roller and the retractable material for maintenance or repair purposes is provided without having to remove any fixedly attached portion of the frame.” Rather, the structure described in Kramer is also of a permanent nature. *See, e.g.*, Fig. 6 and corresponding text. Because neither Morgan nor Kramer disclose or suggest a system, “wherein the frame, the spring-biased roller and the retractable material are configured so that, when the spring biased roller and retractable material are installed in the first side of the frame, and when the assembly

is mounted in and thereby encloses an opening of the building, access to the spring-biased roller and the retractable material for maintenance or repair purposes is provided without having to remove any fixedly attached portion of the frame,” their combination cannot disclose or suggest such a feature. Additionally, the Morgan reference teaches away from this feature as noted above, and therefore one of ordinary skill in the art would not be motivated to combine the Morgan and Kramer references. For at least these reasons, independent claims 19 and 41 are patentable over the combination of Morgan and Kramer, and Applicants respectfully request that these rejections of these claims be withdrawn.

Dependent claims 20-40 and 42-57 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Morgan and Kramer. Dependent claims 20-40 and 42-57 depend from claims 19 and 41, respectively. Accordingly, dependent claims 20-40 and 42-57 should be allowed for at least the reasons set forth above for the independent claims, and Applicants respectfully request that these rejections of these claims be withdrawn.

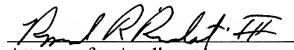
Applicant: John Robert Davies
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CONCLUSION

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the attorney on record.

Respectfully submitted,

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